United Nations A/73/628–S/2018/1085

General Assembly
Security Council

Distr.: General
11 December 2018

Original: English

General Assembly
Seventy-third session
Agenda item 34
Prevention of armed conflict

Security Council
Seventy-third year

Letter dated 4 December 2018 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

Upon the instructions of my Government, I am transmitting herewith a memorandum of the Ministry of Foreign Affairs of the Republic of Artsakh (Nagorno Karabakh Republic) on the issue of missing persons in the context of the Azerbaijan-Karabakh conflict (see annex).

I kindly request that the present letter and its annex be circulated as a document of the General Assembly, under agenda item 34, and of the Security Council.

(*Signed*) Mher **Margaryan**
Ambassador
Permanent Representative

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Annex to the letter dated 4 December 2018 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

Ministry of Foreign Affairs of the Republic of Artsakh

Memorandum on the issue of missing persons in the context of the Azerbaijan-Karabakh conflict

The issue of missing persons in the context of the Azerbaijan-Karabakh conflict emerged long before the full-scale war, which was unleashed by Azerbaijan against the Republic of Artsakh (Nagorno Karabakh Republic)[1] in 1991. Individual cases of hostage-taking and kidnapping of persons of Armenian nationality were taking place in Artsakh already in 1988–1989. The issue of hostages and missing persons became more acute as the conflict escalated. Throughout the territory of Artsakh people were kidnapped, whereupon they found themselves in Azerbaijani prisons and other places of detention, where documents were drawn up for their detention.[2] Often arbitrary arrests of Armenians were carried out by the military commandant's office and the Internal Troops of the Ministry of Internal Affairs of the Union of Soviet Socialist Republics, which transferred them to the Azerbaijani side. In Azerbaijani prisons, they were subjected to torture and other forms of cruel and inhuman treatment.

Taking hostage persons of Armenian nationality became widespread during "Operation Ring" for the deportation of Armenian villages of Artsakh in 1991. Memorial Human Rights Centre, in its special report, cited cases of the death of Armenians in places of detention in Azerbaijan, which "allowed to speak with certainty about murder".[3]

For eight months of 1991 only, 640 peaceful residents from different villages of Artsakh were illegally arrested or captured by Azerbaijani authorities; 127 Armenians were captured and sentenced on the ground of false accusations to different terms and 31 of them died as a result of widely practiced regular torture in Azerbaijani prisons and concentration camps.

During active hostilities, violations by Azerbaijan of international humanitarian law relating to the treatment of prisoners of war and civilians have become egregious.

There are many well-documented facts about the torture of Armenian hostages and prisoners of war by the Azerbaijani side during the Azerbaijan-Karabakh conflict and after the signing of the 1994 ceasefire agreement (burning people alive, sexual violence, beating, public humiliation, setting in dogs and electric shocks). Many of them have signed false imputations of crime and have been thrown in Azerbaijani prisons and the Gobustan camp, which had gained notorious reputation of a death camp. In 1997, Doctors for Human Rights, a British human rights organization, conducted an independent investigation and in its final report presented numerous cases of various forms of torture and murder of Armenian prisoners of war and hostages in Azerbaijani captivity.[4]

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[1] According to Article 1 of the Constitution, "the names 'Republic of Artsakh' and 'Nagorno Karabakh Republic' are identical".

[2] Memorial Human Rights Centre, "Violations of human rights in a number of regions of the Azerbaijani Republic within the period from late April to early June 1991". Available at http://www.memo.ru/hr/hotpoints/karabah/Getashen/index.htm.

[3] Ibid.

[4] See http://www.phruk.org/index.php?php=true&content=showitem&table=reports&item=2&previouscontent.

In 1991–1994, Baku also practiced hostage-taking of other nationals of Armenian origin transiting through the territory of Azerbaijan. One of such cases, when two Georgian citizens of Armenian origin, Vilik Oganesov and Artavaz Mazevan, were taken hostage at the Baku airport, has been considered by the United Nations Working Group on Arbitrary Detention. In its decision No. 31/1993 of 28 September 1993, the Working Group noted that their detention had no legal basis and was a violation of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (E/CN.4/1994/27, pp. 106–107).

Realizing the importance of compliance with international humanitarian law and as a responsible member of the international community, in January 1993, the Republic of Artsakh, through a decision of its Parliament, acceded to the Geneva Conventions of 1949 and their Additional Protocols of 1977. The relevant documents were forwarded to the depositary of the Geneva Conventions and their Additional Protocols.

In March 1993, in order to coordinate efforts aimed at addressing the issue of missing persons, the State Commission on Prisoners of War, Hostages and Missing Persons of the Republic of Artsakh was established. On 3 August 1993, the Chairpersons of the State Commissions of Artsakh and Azerbaijan reached an agreement, according to which the parties committed to begin, within 5 days, systematic work on the exchange of prisoners of war and hostages, and to conduct a joint search for missing persons.

By May 1996, all Azerbaijani military personnel, combatants and civilians held captive on Artsakh territory were handed over to Azerbaijan unilaterally or on the basis of mutual release. In particular, in the framework of the visits of the Minister for Foreign Affairs of the Russian Federation, Yevgeny Primakov, to Baku, Stepanakert and Yerevan, the sides carried out a mutual exchange of prisoners of war and hostages. Azerbaijan transferred 39 people to Armenia, while Artsakh and Armenia transferred 71 prisoners to Azerbaijan. Among the Armenians released by the Azerbaijani side, there were a number of those who had been arrested by the Azerbaijani authorities while travelling by train and in other circumstances, but not in direct relation to military hostilities.[5] Subsequently, captured Azerbaijani servicemen or civilians who crossed the border were transferred to the Azerbaijani side through the International Committee of the Red Cross (ICRC). Currently, there are no Azerbaijani prisoners of war or hostages in the Republic of Artsakh.

Despite the agreement of 3 August 1993 on joint work of the relevant structures of Artsakh and Azerbaijan to address the issue of prisoners of war and missing persons, since 1995, the Azerbaijani authorities have been consistently politicizing this issue and refusing any form of cooperation with Artsakh.

Azerbaijani representatives did not attend the meetings of 16 March and 19 April 1995, initiated by ICRC in Tbilisi to create a joint working group of representatives of the State Commissions of Azerbaijan, Artsakh and Armenia with a view to making joint visits to places of detention and accelerating the release of prisoners of war and hostages. In February 1998, the State Commission of Azerbaijan refused to participate in an organizational meeting to establish a working group on tracing missing and forcibly detained persons, organized on the initiative of human rights defenders Bernhard Clasen, Svetlana Gannushkina and Paata Zakareishvili jointly with the Heinrich Böll Foundation (Germany).

The issue of missing persons has been politicized by Azerbaijan since the 1990s, when the Azerbaijani leadership used to conceal military casualties and bury killed

[5] Vladimir Kazimirov. *Peace for Karabakh. Russia's Mediation in the Settlement of the Nagorno-Karabakh Conflict* (Moscow, VES MIR Publishers, 2014).

servicemen without identification. In connection with the recent exposure of 127 burying sites in Azerbaijan, the Azerbaijani State Commission on Prisoners of War, Hostages and Missing Persons admitted that in many instances the Azerbaijani servicemen were buried without any identification.[6]

The politicization of the problem of missing persons by Azerbaijan and its rejection of the establishment of appropriate mechanisms point to the lack of genuine interest of the Azerbaijani authorities in addressing this issue. Moreover, Azerbaijan has repeatedly violated and continues to systematically violate its obligations under the norms of international humanitarian law and the agreements achieved in the framework of the negotiation process. In particular:

- After reaching agreement on the mutual release of all women, children, the elderly and the sick (February 1995) and the statement of the parties on its implementation, two children, two women, two elderly and three sick persons were found on the territory of Azerbaijan, who were exchanged with the Armenian side a few months later, although it had been agreed that, in the event of detecting persons of this category, they must immediately be unilaterally transferred to the opposite side.

- In 2001, Artsakh citizen Nelson Mnatsakanyan, who for four years had been considered missing, was released from Azerbaijani captivity through a ransom payment made by his parents. All that time the Azerbaijani side had been denying his presence on its territory.

- In 2010 and 2014, Armenian citizens Manvel Saribekyan and Karen Petrosyan, who had accidentally crossed the Armenian-Azerbaijani border, were killed in Azerbaijani captivity. Moreover, Karen Petrosyan was killed the day after his capture.

- In 2013, a citizen of Armenia, Hakob Injignuilyan, was captured by Azerbaijan. His torture and degrading treatment in Azerbaijani custody is well documented by the Azerbaijani side itself, which filmed the interrogation, and this coverage was found during the arrest of the Azerbaijani subversive and criminal group of Hasan Hasanov, Shahbaz Guliyev and Dilham Askerov.

- In 2015, Artsakh citizen Arsen Baghdasaryan, who had willfully crossed the border, was tried in Azerbaijan on trumped-up charges. Such action of the Azerbaijani authorities is a serious violation of international humanitarian law, which prohibits prosecution of both prisoners of war and civilians who have not committed war crimes.

In the course of the Azerbaijan-Karabakh conflict, around 800 citizens of the Republic of Artsakh and the Republic of Armenia have gone missing.

[6] "Graves of 127 unidentified victims of Karabakh war discovered", News.Az, 1 July 2016. Available at https://news.az/articles/karabakh/109791.

By raising the issue of missing persons and at the same time rejecting any cooperation to address it, Azerbaijan is obviously pursuing a hidden agenda. In particular, the Azerbaijani side is trying to manipulate the issue of prisoners of war and missing persons with a view to justifying crimes, committed by citizens of Azerbaijan Dilham Askerov and Shahbaz Guliyev, in the territory of the Republic of Artsakh.[7]

This campaign is part of a state policy of incitement of Armenophobia in Azerbaijan and promotion of hate crimes against Armenians that has penetrated all spheres of public life. The existence of racism and xenophobia towards Armenians in Azerbaijan has been also confirmed in the documents of several international organizations.

Stepanakert, 12 November 2018

[7] On 8 July 2014, an armed group consisting of three Azerbaijani citizens, Shahbaz Jalal oglu Guliyev (born in 1968), Dilham Gardashkhan oglu Askerov (born in 1960) and Hasan Hasanov (member of the Azerbaijan secret service), that had illegally infiltrated the territory of the republic, was discovered in the Shahumyan region of the Republic of Artsakh. Shahbaz Guliyev and Dilham Askerov were detained by the law enforcement bodies of the Republic of Artsakh, while Hasan Hasanov, the third member of the illegal armed group, showed resistance during detention and was neutralized. Members of the criminal group committed a number of grave and especially grave crimes in the territory of Artsakh, including the abduction and murder of 17-year-old Smbat Tsakanyan, the killing of 43-year-old Sarkis Abrahamyan, and the infliction of a serious wound on 37-year-old Karine Davtyan. Forensic examination showed that Smbat Tsakanyan was killed by the assault rifle belonging to Dilham Askerov, while Sarkis Abrahamyan was killed and Karine Davtyan was wounded by the weapon of Hasan Hasanov. From 27 October to 29 December 2014, the trial of Shahbaz Guliyev and Dilham Askerov was held in Stepanakert. The trial of Dilham Askerov and Shahbaz Guliyev was open and was held in full compliance with the norms of justice, both national and international. During the trial, it was established that the criminal group had been armed by the secret services of Azerbaijan and sent to Artsakh for espionage. Shahbaz Guliyev was found guilty of espionage (art. 316), crossing of the state border of the Republic of Artsakh by a group and without appropriate permission (art. 350, para. 2), carrying of arms by an organized group of people (art. 245, para. 3), and kidnapping of a minor with the use of a weapon committed by a group of people (art. 129, para. 1) and was sentenced to 22 years in prison. Dilham Askerov, in addition to the above counts, was found guilty of murder motivated by ethnic hatred with the use of a weapon, combined with kidnapping by an organized group of people (art. 103, part 2, paras. 3, 7 and 14) and was sentenced to life imprisonment.